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**Technical assistance and capacity-building**

# Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Afghanistan and on the achievements of technical assistance in the field of human rights in 2015*

*Summary*

The present report describes the human rights situation in Afghanistan, covering the period from 1 January to 30 November 2015, and provides an overview of the core work and technical assistance carried out by the Human Rights Unit of the United Nations Assistance Mission in Afghanistan (UNAMA), in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR).

The report raises key human rights issues relating to the protection of civilians in armed conflict, in particular the impact upon women and children; continued torture and ill-treatment in places of detention; the prevalence of violence against women; and the continued absence of accountability for perpetrators of human rights violations and abuses. The report provides an overview of the monitoring, documentation, advocacy and related activities carried out by UNAMA/OHCHR to address those issues.

The report draws attention to the consequences of the armed conflict on the protection of human rights . Indeed, civilians continue to bear the brunt of the violence, with UNAMA/OHCHR having recording 3,234 civilians killed and 6,935 injured between 1 January and 30 November 2015 — the highest number of civilian casualties since 2009.

The report highlights key activities undertaken by the Government of Afghanistan to uphold its commitments under international human rights law, including the adoption of national plans of action in the areas of women's rights, peace and security, and the prevention of torture. The report concludes with concrete recommendations to the Government, anti-Government elements and the international community.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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# I. Introduction

1. The present report is submitted pursuant to Human Rights Council decision 2/113 of 27 November 2006 and its resolution 14/15 of 18 June 2010. It has been prepared in cooperation with the United Nations Assistance Mission in Afghanistan (UNAMA).

2. UNAMA/OHCHR continues to pursue an overall strategy of embedding human rights in Afghanistan through targeted monitoring, documentation, reporting and analysis, together with advocacy and engagement in strategic partnerships and dialogues with the Government, national institutions and civil society actors and communities across Afghanistan and international partners.

3. In 2015, UNAMA/OHCHR prioritized five areas, namely, the protection of civilians in armed conflict; human rights and the protection of children in armed conflict; the elimination of violence against women and gender equality; the prevention of torture and arbitrary detention; and the integration of human rights into peace and reconciliation processes. In addition, UNAMA/OHCHR supports the strengthening of the Afghanistan Independent Human Rights Commission. These priorities reflect the mandate of UNAMA/OHCHR and the main human rights concerns of people in Afghanistan. They also serve as focus areas for the Government's reform agenda following the transfer of security and other responsibilities from international actors.

4. In 2015, Afghanistan faced an intensified insurgency in the midst of a difficult political transition and serious economic issues. Taliban and other anti-Government elements intensified their efforts to seize territory and increasingly sought to take control of major population centres. While peace negotiations between the Government and the Taliban gained some momentum, they did not diminish efforts by the Taliban to increase its control of territory and did not result in decreased violence. The year 2015 was marked by an increase in fighting between Afghan forces and anti-Government element groups and the emergence of new groups pledging allegiance to the organization known as Daesh, notably in Nangarhar province. UNAMA/OHCHR observed that the emergence of such groups caused serious concern among civilians.

5. On 15 October, the President of the United States of America, Barack Obama, announced the extension of the United States military presence in Afghanistan beyond 2016 and the commitment to maintain 5,500 troops into early 2017. The President of Afghanistan, Ashraf Ghani, welcomed the announcement, adding that it would improve stability. On 1 December, the North Atlantic Treaty Organization (NATO) announced its agreement to sustain the presence of the Resolute Support Mission in Afghanistan through 2016, fund 350,000 troops of the Afghan National Security Forces through 2017 and ensure that it can finance the Afghan National Security Forces from 2018 to 2020.

6. Between 1 January and 30 November, UNAMA/OHCHR documented 10,169 civilian casualties (3,234 civilians killed and 6,935 injured), an increase of 4 per cent compared with the same period in 2014 and the highest number of casualties since 2009. This increase is mainly due to the escalation in ground engagements between Afghan forces and anti-Government elements, in particular in Kunduz city, and to several large suicide attacks in Kabul city.

7. While UNAMA/OHCHR documented a reduction in civilian casualties caused by anti-Government elements, the Taliban and other groups remained responsible for the majority of civilian casualties. Anti-Government elements continued to launch complex and suicide attacks and to conduct targeted killings of civilians.

8. The Assistant Secretary-General for Human Rights, Ivan Šimonović, visited Afghanistan from 15 to 22 April. In that context, he engaged with relevant authorities in Kabul, Kapisa and Nangarhar provinces, encouraging the advancement of human rights, in particular stronger protection of civilians, and urging the Government to ratify the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

9. While the Government made a number of clear commitments in 2015 to improve its adherence to international human rights standards, UNAMA continued to document human rights violations and abuses, including widespread and prevalent violence against woman and girls, with an overall climate of impunity for perpetrators.

## II. Protection of civilians

10. Following the final transition of security responsibility from international military forces to the Afghan National Security Forces on 1 January, anti-Government elements multiplied their attempts to gain control of population centres, seizing more district administrative centres than in previous years. In September, the Taliban briefly captured Kunduz, the first provincial capital to fall since the overthrow of the Taliban regime in 2001.

11. Despite transitioning to a "train, assist, advise" mission on 1 January, international military forces continued to provide support to their Afghan counterparts as fighting intensified. However, the protection of civilians has been further complicated by the emergence of new armed opposition groups, the fracturing of the Taliban following the revelation of the death of Mullah Omar, and a resurgence of pro-Government armed groups in parts of the country.

12. From 1 January to 30 November , civilian deaths and injuries from conflict-related violence increased by 4 per cent compared with the same period in 2014. Current figures indicate that 2015 saw the highest number of civilian casualties recorded in a year by UNAMA/OHCHR since 2009.

13. Between 1 January and 30 November, UNAMA/OHCHR documented 10,169 civilian casualties (3,234 civilians killed and 6,935 injured). It was able to attribute 64 per cent of them to anti-Government elements and 16 per cent to pro-Government forces (defined as the Afghan National Security Forces, pro-Government armed groups and international military forces). Seventeen per cent of casualties caused by ground engagements between pro-Government forces and anti-Government elements could not be attributed. Three per cent of civilian casualties resulting mainly from explosive remnants of war were unattributed.

14. Although certain trends, such as the increase in targeted killings of civilians, remained consistent across the country, UNAMA/OHCHR documented a decrease in civilian casualties in all regions compared with 2014, except for the north-eastern and central regions. In the central region, specifically in Kabul city, an increase in complex and suicide attacks contributed to the rise in civilian casualties.

15. On 28 September, the Taliban launched an attack on and captured Kunduz city, in the north-east, precipitating more than two weeks of urban fighting as pro-Government forces attempted to regain control of the area. Fighting continued until 13 October, when the Taliban formally announced its withdrawal from the city. During this period, UNAMA/OHCHR recorded a preliminary figure of 848 civilian casualties (289 deaths and 559 injured) from conflict-related incidents in Kunduz city and surrounding districts. The vast majority of civilian casualties reportedly resulted from ground fighting between

Taliban fighters and Afghan security forces. UNAMA/OHCHR also received reports of civilian casualties from targeted or deliberate killings, as well as parallel justice punishments.[1]

16. UNAMA also documented a preliminary figure of 67 civilian casualties (30 dead and 37 injured) caused by an air strike carried out by international military forces on a Médecins Sans Frontières hospital, in Kunduz city, on 3 October. At the time of the attack, the hospital appeared to have been a fully operational medical facility and, as such, was fully protected under international humanitarian law. All military have an obligation to respect and protect civilians at all times, and medical facilities and personnel are the object of special protection. Furthermore, those who are rendered hors de combat may not be the object of attack.[2] These obligations apply no matter whose air force is involved and irrespective of the affiliation of the patients receiving medical care. Violations of these obligations also entail a violation of the right to life.[3] The Special Representative of the Secretary-General for Afghanistan and Head of UNAMA, the United Nations High Commissioner for Human Rights, the Special Representative of the Secretary-General for Children and Armed Conflict and the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator all strongly condemned the attack and called for an independent and impartial inquiry into the incident.

17. During its occupation of Kunduz, the Taliban clearly targeted human rights defenders and Government employees through systematic searches of their homes and destroyed and looted the property and premises of the Government, non-governmental organizations and the United Nations. Kunduz residents complained of water and electricity outages and food scarcity, which were exacerbated by significant restraints on humanitarian access owing to the fighting. The absence of governance during this period and the complete breakdown of rule of law resulted in the loss of protection of the most basic human rights. Once inside the city, the Taliban immediately freed over 600 male prisoners[4] from the Kunduz prison, allegedly providing some with weapons, and thereby enabling them to join the fight against Afghan security forces. This chaos created an environment in which arbitrary killings, opportunistic criminality and destruction took place with complete impunity. UNAMA/OHCHR confirmed that fear of sexual violence by armed men or opportunistic criminals, fuelled by unconfirmed reports of sexual abuse, was a key factor in the mass displacement of women from the city.

18. Throughout 2015, as part of its support to the Government of Afghanistan and the Afghan people in laying the foundations for peace, UNAMA continued to engage with all parties to the conflict, including the Taliban, to advocate for the protection of civilians and of women's and children's rights.

19. In February and March, UNAMA/OHCHR released two public reports highlighting civilian casualty figures, key trends and analysis, and recommendations to all parties to mitigate civilian deaths and injuries (see annual and midyear reports on the protection of civilians in armed conflict).

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[1] See United Nations Assistance Mission in Afghanistan and United Nations Office of the High Commissioner for Human Rights, *Afghanistan: Human Rights and Protection of Civilians in Armed Conflict: Special Report on Kunduz Province* (December 2015).

[2] See International Committee of the Red Cross, Customary IHL – Rule 47. Attacks against Persons Hors de Combat database, available from https//www.icrc.org/customary-ihl/eng/docs/v1_rul_rule47, last accessed 24 November 2015.

[3] Afghanistan's obligations under international human rights law continue to apply during periods of armed conflict.

[4] The women held at the prison also left the Kunduz prison at this time.

## A. Anti-Government elements

20. In the first 11 months of 2015, UNAMA/OHCHR attributed 64 per cent of all civilian casualties to anti-Government elements, which include a range of armed opposition groups. This represents a 10 per cent decrease in civilian casualties attributed to such groups since 2014. As in previous years, there was no claim of responsibility for the majority of the incidents attributed to anti-Government elements.

21. Between 1 January and 30 November, improvised explosive devices and suicide and complex attacks accounted for 40 per cent of all civilian deaths and injuries by anti-Government elements. Notwithstanding a 20 per cent decrease compared with the same period in 2014, improvised explosive devices alone accounted for 663 civilian deaths and 1,571 injured (2,234 civilian casualties). In contrast with the overall decline in civilian casualties caused by such devices, UNAMA/OHCHR documented a 35 per cent increase in civilian casualties from pressure-plate improvised explosive devices. On 7 August, two suicide attacks in Kabul city killed 42 civilians and injured 313. This represents the highest number of civilian casualties in a single day since UNAMA/OHCHR began systemically recording such casualties in 2009. In one of the attacks, a suicide vehicle-borne improvised explosive device detonated in the Shah Shahid area, killing 15 civilians and injuring 283. The Taliban issued a statement on its website, denying responsibility for the attack.

22. Throughout 2015, anti-Government elements continued to target and kill civilians, in particular individuals who worked for or were perceived to support the Government or the Afghan National Security Forces and international military forces. Between 1 January and 30 November, UNAMA/OHCHR documented 1,266 civilian casualties (773 civilian deaths and 493 injured) from targeted killings, an increase of 24 per cent compared with the same period in 2014. The Taliban claimed responsibility for 20 per cent of the civilian casualties from targeted killings documented by UNAMA/OHCHR on its website. On 7 September, for example, it issued a claim of responsibility for the killing of a civilian in Kandahar city, alleging that he was a spy for the Government and international military forces.

23. Anti-Government elements increasingly targeted the civilian Government administration. UNAMA/OHCHR documented 174 direct attacks against civilian Government administration personnel or locations, causing 941 casualties (147 deaths and 794 injured). The total number of casualties caused by attacks against civilian Government administration targets increased by 110 per cent compared with the same period in 2014. Suicide attacks caused the highest number of civilian casualties in incidents targeting civilian Government administration personnel or sites, followed by ground engagements and targeted killings.

24. On 12 October, in an explicit attempt to threaten and intimidate journalists, the Taliban's military commission issued a statement condemning the reporting of its capture of Kunduz city by two Afghan television channels (Tolo TV and 1TV) and stating that those media outlets were to be considered "legitimate military targets" and their staff "enemy personnel". The statement followed reporting by both channels on allegations of abuse by the Taliban during its occupation of Kunduz. On 16 October, the Taliban published an article on its website, directly calling for attacks on media outlets and journalists "that work for and are funded by the West". Mirroring the language used in the statement of 12 October, the article stated that such media outlets "must become firm military targets and be eliminated".

25. On 26 October, a remote-controlled improvised explosive device detonated against a shuttle bus transporting staff of the Afghanistan Independent Human Rights Commission to the Commission's office in Jalalabad city, Nangarhar province. Two male employees were killed and six were injured, including one woman. The Commission reported that there had

been no specific threat or intimidation against the office before the attack. The Commission, UNAMA and OHCHR issued statements condemning the attack.

26. UNAMA noted an increase in killings and abductions of civilians of Hazara ethnicity by anti-Government elements. For example, on 13 October, anti-Government elements abducted seven Hazara civilians, including one girl and two boys, in the south-eastern province of Ghazni. Between 6 and 8 November, anti-Government elements executed all seven abductees in the southern province of Zabul, Arghandab district; armed clashes between two rival groups of anti-Government elements were also reported in Zabul.

27. In the first half of 2015, anti-Government elements abducted at least 97 members of the Hazara community in 10 incidents. All but one took place in areas with mixed Hazara and non-Hazara communities in Balkh, Faryab, Ghazni, Ghor, Sari Pul, and Uruzgan provinces. UNAMA has confirmed the release of 78 of the 97 abducted Hazaras, while it was not able to verify the whereabouts of the remaining hostages. The motives for the abductions included holding hostages for ransom, exchange of detainees and suspicion of the hostages being members of the Afghan National Security Forces. In some cases, however, the motive was unknown. On 23 February, in one incident that garnered significant public attention, anti-Government elements abducted 30 Hazara passengers from two public buses in Shah Joy district, Zabul province, as they were travelling from Herat to Kabul. Three of the victims were killed during captivity by anti-Government elements while two died, reportedly of natural causes. Between May and August, the remaining hostages were released, reportedly in exchange for a group of detainees held by the Government.

## B. Pro-Government forces

28. From 1 January to 30 November, UNAMA/OHCHR documented 1,648 civilian casualties (540 civilian deaths and 1,108 injured) attributed to pro-Government forces, a 30 per cent increase from 2014. This rise is attributed to an increase in offensive operations and counter-attacks by the Afghan National Security Forces against anti-Government elements, including in or near civilian populated areas. Fifty-eight per cent of civilian casualties attributed to pro-Government forces during this period resulted from the use of explosive weapons, including rockets, mortars and grenades. For example, on 9 June, the Afghan National Army fired mortars at a Taliban position in Ghormach district, Faryab province, striking a civilian residence, killing three children and a man, and injuring a woman.

29. Reversing previously observed trends, civilian casualties from aerial operations increased by 77 per cent in 2015, causing 275 civilian casualties (147 deaths and 128 injured). Of these, international military forces caused 165 civilian casualties (104 deaths and 61 injured). This represents a 14 per cent increase in civilian casualties caused by international military forces compared with the same period in 2014 and primarily resulted from the bombing of the Médecins Sans Frontières hospital in Kunduz on 3 October, which caused 67 civilian casualties (30 deaths and 37 injured).

30. The Afghan Air Force caused 40 per cent of the casualties arising from aerial operations (110 civilian casualties: 43 deaths and 67 injured). Civilian casualties from Afghan Air Force operations increased in the second half of 2015 compared with the first half of the year. UNAMA/OHCHR has urged international military forces to strengthen their support to the Afghan Air Forces to encourage the implementation of effective precautionary measures to prevent civilian casualties and to institutionalize best practices learned over the years in reducing such casualties from aerial operations.

31. During the reporting period, UNAMA/OHCHR was able to attribute 130 civilian casualties (50 deaths and 80 injured) to pro-Government militia, — a 76 per cent increase from the same period in 2014. Almost all casualties resulted from deliberate killings by pro-Government militia and ground engagements with anti-Government elements.

32. UNAMA/OHCHR reiterates concern about the consistent failure of the authorities to protect civilian communities from human rights abuses and harm perpetrated by pro-Government armed groups and about the continued absence of accountability for such actions. UNAMA/OHCHR notes the gap between the vast number of documented abuses committed by pro-Government armed groups and the scarce number of investigations and prosecutions of human rights abuses committed by such groups. It highlights that impunity for human rights abuses and crimes perpetuates insecurity, undermines civilian protection and weakens the rule of law. The pattern of abuses and impunity by pro-Government armed groups erodes the legitimacy of the Government and fuels continuing cycles of violence.

33. Although UNAMA/OHCHR raised this issue throughout 2013 and 2014, it has observed little improvement in the accountability of the Afghan National Security Forces for incidents in which its members caused civilian casualties and notes the continued lack of a permanent structure in the Security Forces to systematically investigate allegations of civilian casualties, initiate remedial measures and take follow-up action. While the Ministry of Defence drafted a ministerial policy on civilian casualty mitigation, it has yet to be signed by the acting Minister. Although the NATO presence plans to fully transition the Civilian Casualty Avoidance and Mitigation Board from international military supervision to an Afghan-led body in January 2016, there was no indication at the end of December 2015 that the underlying structures and processes established by the international military forces would be in place to support the transition. While UNAMA/OHCHR observed some investigation and prosecution of members of the Afghan National Army for significant incidents, it noted that the vast majority of incidents had not been investigated or that the blame had been placed on anti-Government elements following an informal investigation.

## C. Children and armed conflict

34. Children continued to suffer the direct and indirect consequences of conflict-related violence. Between 1 January and 30 November, UNAMA/OHCHR verified 1,189 incidents, which killed 645 children and injured 1906 (2551 casualties). The verified incidents indicate that 645 children (477 boys, 155 girls and 13 undetermined) were killed and 1,906 children (1381 boys, 491 girls and 34 undetermined) were injured. On average, more than 58 children were killed and injured per week across the country during 2015, and approximately 25 per cent of civilian casualties were children.

35. In 2015, ground engagements continued to cause the highest number of deaths and injuries of children, causing 1,301 casualties. Improvised explosive devices were the second leading cause of deaths and injuries among children, causing 512 casualties, followed by explosive remnants of war (297) and suicide attacks by anti-Government elements (178). The highest figures were recorded in the central region. Air strikes by international forces killed and injured 60 children, compared with 51 in 2014. Anti-Government elements were responsible for 44 per cent of the total verified child casualties recorded, while pro-Government forces were responsible for 23 per cent.

36. From 1 January to 30 November, UNAMA/OHCHR documented 101 incidents impacting schools and related personnel, a 35 per cent decrease from 2014, when 155 such incidents were reported. This included 61 documented instances of threats, intimidation and harassment against education personnel, 12 targeted killings, 11 abductions and eight improvised explosive device incidents. The incidents caused the death of 15 civilians and injured 15, mainly as a result of the deliberate targeting of education personnel and

improvised explosive device detonations on or near school premises. At least 87 of the verified incidents were attributed to anti-Government elements.

37. From 1 January to 30 November, UNAMA/OHCHR documented 62 incidents and attacks against or impacting hospitals and health personnel, including 55 incidents attributed to anti-Government elements. Six civilians were killed and four injured owing to some of those incidents. Other incidents included the abduction of 44 medical personnel and 28 cases of threats, intimidation and harassment. The most significant single incident impacting the provision of health care was the air strike on the Médecins Sans Frontières hospital in Kunduz city on 3 October, which killed 30 civilians and injured 37 and destroyed the main building of the hospital (see para. 16 above).

38. Conflict-related violence continued to impede access to health care, in particular for women. On 7 November in Ghormach district, Faryab province, a pregnant woman and her unborn child died owing to the closure of the only health-care facility in the district following the Taliban's capture of Ghormach district centre.

39. During the period under review, the country task force on monitoring and reporting on children and armed conflict verified 11 incidents of underage recruitment and use of children by parties to the conflict, compared with 17 cases in 2014. The children had been recruited and used for planting improvised explosive devices, transporting explosives, carrying out suicide attacks and spying. The Taliban was responsible for the recruitment of six boys, while two boys were recruited by the Afghan Local Police, three by the Afghan National Army and three by the Afghan National Police.

40. During the period under review, the country task force on monitoring and reporting documented six incidents of abduction involving 33 children, all of which were perpetrated by anti-Government elements. Nine of the children were killed while in custody, including two boys whose fathers worked as Afghan National Police officers, the son of a Government employee and two off-duty, underage Afghan National Police elements.

41. In November, UNAMA/OHCHR and the United Nations Children's Fund (UNICEF) facilitated a visit of the Ministry of Interior to the child protection unit in the Afghan National Police recruitment centre, in Herat province. The establishment of child protection units is part of the Government's efforts to comply with the 2011 Government and United Nations action plan for the prevention of underage recruitment. At the end of November, such units had been created in four provinces, all within the western region. Following the visit, the Ministry of Interior expressed a commitment to expand the child protection units to all recruitment centres, beginning with Balkh and Nangahar provinces, in compliance with the Government's action plan and road map.

42. In June 2015, the Afghanistan Independent Human Rights Commission established an advocacy committee to develop an action plan to eliminate bacha bazi (playing with boys) or pederasty and other forms of sexual abuse of boys by men. As members of the committee, UNAMA/OHCHR and UNICEF provided technical support to draft the legislation prohibiting and criminalizing that practice. At the end of November, the draft remained under review by the Ministry of Justice.

43. After a delay of over two years, the country task force on monitoring and reporting met on 21 July and adopted its terms of reference and established a technical working-level mechanism on children and armed conflict. Members of the country task force on monitoring and reporting renewed their commitment and support to assist the Government in meeting its obligations under the action plan and road map to comply with the aim of delisting the Afghan National Police from the annexes to the report of the Secretary-General on children and armed conflict.

## III. Protection from arbitrary detention and respect for fair trial rights

44. The treatment of conflict-related detainees, in particular those in the custody of the National Directorate of Security, remains a major human rights concern.

45. In February, UNAMA/OHCHR published its third public report on the treatment of conflict-related detainees, based on interviews with 790 detainees conducted during visits to 128 detention facilities between February 2013 and December 2014.

46. The report found that one third (35 per cent or 278 individuals) of the 790 detainees interviewed by UNAMA/OHCHR had experienced torture or ill-treatment in the custody of the National Directorate of Security, the Afghan National Police, the Afghan Local Police and the Afghan National Army. UNAMA/OHCHR documented 16 different methods of torture, including prolonged and severe beating with cables, pipes, hoses and wooden sticks (including on the soles of the feet), punching, kicking and hitting all over the body, twisting of genitals and threats of execution and/or sexual assault. UNAMA also documented cases of removal of fingernails and toenails and asphyxiation caused by stuffing clothes or plastic bags into detainees' mouths.

47. While UNAMA/OHCHR recorded a 14 per cent decrease in the overall percentage of detainees interviewed who had experienced torture or ill-treatment compared with the previous observation period (October 2011-October 2012), it identified a continuing and pervasive lack of accountability for the use of torture, documenting only one prosecution of two officials of the National Directorate of Security officials for torture over the entire 23-month observation period.

48. Key recommendations of the report included the establishment of an independent national preventive mechanism on torture, the closure of unofficial detention centres and the prompt, impartial and thorough investigation of all allegations of torture in order to ensure accountability.

49. The Government reacted positively to the report and issued a national plan on the elimination of torture, in which it committed to beginning the process of ratifying the Optional Protocol to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment and to establishing a national preventive mechanism on torture, as required by the Protocol. The national plan also included legislative, preventive, educational and capacity-building measures to promote accountability and ensure more effective implementation of Afghanistan's obligations to eliminate torture under international and domestic law.

50. In June 2015, President Ghani committed to signing the Convention against Torture. That commitment was reiterated by the Government's Chief Executive Officer, Abdullah Abdullah, in a speech to the General Assembly, on 28 September. At the end of November, the Ministry of Justice was working on the elaboration of a new anti-torture law, which is expected to contain extensive provisions of redress for victims of torture.

51. Notwithstanding the Government's commitments, torture remains prevalent in detention facilities throughout the country, in particular those run by the National Directorate of Security. Since the release of its report, UNAMA/OHCHR continued to interview conflict-related detainees, including juveniles, in detention facilities in 25 provinces. It was revealed that detainees continued to experience torture or ill-treatment at the time of arrest and during interrogation or detention at levels comparable to the findings documented in the February 2015 report. The majority of the cases related to National Directorate of Security facilities, although UNAMA/OHCHR also documented cases of ill-

treatment or torture carried out by the Afghan Local Police, the Afghan National Police and the Afghan National Army.

52. Furthermore, on 2 September, President Ghani signed a legislative decree (Presidential Decree No. 76) amending the 2014 Criminal Procedure Code,[5] which is aimed at "effectively prosecuting perpetrators of terrorism crimes" and the majority of the crimes prescribed by the Law on Crimes Against Internal and External Security.[6] This Decree may increase the risk of arbitrary detention and torture. Indeed, article 10 of the Decree provides for preventive detention, in a "special facility", of individuals whom the Government considers may pose an actual or potential threat to national security. Suspects can be detained without charge and the period of detention can be extended indefinitely if required. Article 10 also applies to convicted prisoners who have completed their sentences. This provision represents a complete reversal of the position of the previous Government. On multiple occasions, former President Karzai strongly condemned the United States military for holding conflict-related detainees in Bagram Detention Facility without charge and without allowing them access to the Afghan legal system. His concerns eventually led, in May 2014, to the closure of Bagram as a United States-run facility and to its transfer to the Government's jurisdiction.

53. The Decree also amends the Criminal Procedure Code so as to allow security officials to hold persons suspected of security crimes for up to 10 days before bringing them before a prosecutor and allow prosecutors to order the detention of suspects for up to 60 days before bringing them before a judge.

54. The provisions of the Criminal Procedure Code were already in breach of Afghanistan's international obligations under the International Convention on Civil and Political Rights,[7] as they authorized security personnel to hold detainees for 72 hours and prosecutors to detain suspects for up to seven days in the case of a misdemeanour and up to 15 days in the case of a felony. The legislative amendment introduced by the Presidential Decree represents an even more egregious violation of the relevant international standards and significantly increases the risk of ill-treatment and torture for those who remain in detention for extended periods without judicial oversight and access by monitors.

## IV. Violence against women and the promotion of women's rights

55. During the reporting period, the continuing prevalence of violence against women remained a serious concern. From January to the end of November, UNAMA/OHCHR

[5] Annex No.1 to the Criminal Procedure Code published in Official Gazette No.1132, on Terrorist Crimes and Offences Against Internal and External Security (published in Official Gazette No. 1190, 19 October 2015 ).

[6] Presidential Decree No. 76, Article 1- "This annex has been enacted to effectively prosecute perpetrators of terrorism crimes and crimes under articles 1,2,3,4,5,6,7,8,9,10,12,13,14,15,16,23,27 and 28 of the Law on Crimes Against Internal and External Security". (The cited articles include, inter alia, the offences of treachery, espionage, terror, subversion, sabotage, propaganda, disclosure of State secrets, hostage- taking and providing assistance to the enemy).

[7] Under article 9 (3) of the International Convention on Civil and Political Rights, "anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized to exercise judicial power". While the exact meaning of "promptly" may vary depending on objective circumstances and, in the view of the Human Rights Committee, delays should not exceed a few days from the time of arrest, any delay longer than 48 hours is exceptional. (See Human Rights Committee, General Comment No.35, 16 December 2014, CCPR/C/GC/35, para. 33).

documented 838 alleged cases of violence against women across Afghanistan, including 98 murders, 46 cases of forced immolation, 24 "honour" killings, 41 rapes, 398 cases of battery and laceration, 73 forced marriages and 27 underage marriages. Out of the total number of documented cases, 145 victims were minors. UNAMA/OHCHR reiterated the obligations under international law for relevant authorities to take the actions necessary to prevent, protect against and respond to violence against women, whether perpetrated by private or public actors.

56. On 16 June, at the twenty-ninth session of the Human Rights Council, the Special Rapporteur on violence against women, its causes and consequences briefed the Council on her mission to Afghanistan in November 2014. While acknowledging progress in addressing the situation of women and girls, she noted that the majority of Afghan women remained marginalized, discriminated against and at high risk of being subjected to violence.

57. In 2015, two cases in particular sparked widespread national and international public condemnation: the murder of a young woman by a mob in Kabul city on 19 March over false allegations that she had burnt a copy of the Quran; and the stoning to death of a woman on 25 October in Ghor province as a punishment by anti-Government elements for alleged adultery. Both incidents were stark reminders of the nature of the brutality faced by women in Afghanistan.

58. On 19 April, UNAMA/OHCHR released a report entitled "Justice through the Eyes of Afghan Women: Cases of Violence against Women Addressed through Mediation and Court Adjudication", which documented factors enabling and hindering women's access to justice in cases of violence from the perspective of women themselves. The report was based on interviews with 110 women and girl victims of violence in 18 of Afghanistan's 34 provinces between August 2014 and February 2015. It revealed the significant use of mediation rather than court adjudication by women to obtain justice and remedies. It highlighted that the use of mediation was influenced by several factors, including perceived deficiencies in the criminal justice system in processing women's claims, allegations of corruption, abuse of power and lack of professionalism. UNAMA/OHCHR findings indicated that rather than seeking the imposition of criminal sanctions, the majority of women interviewed were primarily concerned with obtaining civil redress, such as divorce, fair alimony and custody settlements, or living in a violence-free environment. The report called for the adoption of legal, institutional and policy reforms to improve women's access to justice in cases of violence.

59. UNAMA/OHCHR continued to conduct activities to raise public awareness of legal guarantees protecting survivors of violence. For example, it held International Women's Day events throughout Afghanistan from 1 to 11 March, including in the cities of Asadabad, Bamyan, Herat, Jalalabad, Kabul, Kandahar, Kunduz, Maidan Shahr, Mazar, Qala-e-Naw and Sharana.

60. UNAMA/OHCHR trained at least 500 men and women, including ulema councils, legal experts, tribal elders, religious scholars, law enforcement and judicial officials, non-governmental organizations, civil society actors and women survivors of violence, on women's rights under the international and domestic legal framework, including sharia law. For example, UNAMA/OHCHR delivered training on human rights and women's rights to at least 245 women police officers, including members of policewomen councils, and family response units deployed in Bamyan, Daikundi and Paktya provinces.

61. On 30 June, President Ghani launched the first national action plan on Security Council resolution 1325 (2000), reaffirming the Government's commitment to the implementation of the women and peace and security agenda in Afghanistan. The national action plan enshrines the Government's pledges for strategic interventions towards

increasing the role of women in the area of participation, protection, prevention, relief and recovery. UNAMA/OHCHR continued to advocate for its swift implementation, viewing it as necessary and urgent to effectively create opportunities for women to exercise leadership, contribute to decision-making processes and ultimately influence Afghanistan's political and security transitions, including the peacebuilding agenda.

62. Between September and November, as part of its advocacy on Security Council resolution 1325 (2000), UNAMA/OHCHR facilitated nine open day events with over 370 women civil society representatives, including university students and local peace activists across Afghanistan. Participants called for women to be given a meaningful role during the political and peace processes as opposed to being considered only as victims in need of protection. During the reporting period, UNAMA/OHCHR advocated for the adoption of concrete initiatives to ensure an inclusive gender-sensitive environment conducive to participation by women in the electoral process. In particular, it proposed a range of temporary special measures to the Special Commission on Electoral Reform. Pursuant to Presidential Decree No. 84 of 6 September 2015[8] and recommendations from the Commission, seats reserved for women representatives were reinstated to at least 25 per cent in the provincial councils and district councils.

63. During the 16 Days of Activism against Gender-Based Violence Campaign, the Government released its third report on the implementation of the Law on the Elimination of Violence against Women of 2009, based on data gathered from the Ministry of Women's Affairs, the Ministry of Interior and the Attorney General's Office between March 2014 and March 2015. UNAMA/OHCHR provided significant analytical and drafting support to the Government in that context. According to the report, a total of 5,720 cases were registered with the three above-mentioned institutions, including 3,038 cases that constituted acts that could be prosecuted under the Law on the Elimination of Violence against Women.

64. The safety of women in public areas remained of concern, with harassment remaining common. In September, the Council of Ministers adopted the Regulation on the Prohibition of the Harassment of Women[9] aimed at preventing and responding to harassment in the workplace and public spaces. The regulation does not, however, provide any procedures for the registration of complaints or the initiation of investigations and only refers to a future law that has yet to be drafted.

65. Issues relating to women's rights remained at the forefront of discussions during the senior officials' meeting on 5 September: the Self-Reliance through Mutual Accountability Framework agreed upon by the Government and the international community includes gender indicators under anti-corruption, governance, rule of law and human rights, namely: (a) demonstrated developments in the legal and policy framework for empowering women, especially the elimination of violence against women; (b) increase in participation by women in government, including the justice and security sectors; (c) implementation of the national action plan on Security Council resolution 1325 (2000); (d) preparation and implementation of anti-harassment regulations; and (e) implementation of the recommendations of the reports on the implementation of the Law on the Elimination of Violence against Women and the establishment of dedicated prosecution units for cases of violence against women in Attorney General's offices in all provinces. Related short-term deliverables to be completed by the end of 2016 included in the Framework also include: (a) initiating the implementation of the national action plan on Security Council resolution

[8] Presidential Decree No. 84 (6 September 2015) is a legislative decree on signing amendments and additions to some of the articles of the Election Law.

[9] Published in Official Gazette Extraordinary issue No. 1185, dated 3 October 2015.

1325 (2000) by the first half of 2016, following approval of donor financing by the end of 2015; (b) issuance of an anti-harassment regulation aimed at improving the working environment for women in the public sector by the first half of 2016; and (c) establishment of dedicated prosecution units for cases of violence against women in 26 provinces by December 2016. The inclusion of these indicators and deliverables reflects the strong advocacy of UNAMA/OHCHR with the Government and donors.

66. During the reporting period, progress on the integration of women into political, economic and social life remained slow. The National Unity Government appointed four women to ministerial posts, namely, Women's Affairs; Higher Education; Labour, Social Affairs, Martyrs and Disabled; and Counter Narcotics. Two women were selected to be the governors of Daikundi and Ghor provinces; the latter was removed from her position in December 2015 to become the Deputy Governor of Kabul province. A woman was nominated as a judge of the Supreme Court of Justice amid opposition from conservative sectors, including members of the Ulema Council. She was not confirmed, falling short by nine votes in the National Assembly (Wolesi Jirga). While these appointments comply with commitments made during the London Conference on Afghanistan in December 2014, the representation of women in leadership roles remains extremely low, tends to be limited to the provincial capitals and is often symbolic.

67. Notwithstanding progress in the recruitment of women police officers, the representation of women in the Afghan National Police remained minimal, standing at approximately 2,700 (1.5 per cent of the overall force) at the end of October. In August, in an effort to boost recruitment, the Ministries of Interior and Women's Affairs signed a memorandum of understanding requiring local Ministry of Women's Affairs offices to identify suitable women candidates interested in joining police academies and disseminate informational and publicity materials to attract more women to the Afghan National Police. Projects to support women police officers, such as separate rooms and washrooms, were also initiated.

## V. Peace and reconciliation, including accountability and transitional justice

68. In 2015, UNAMA/OHCHR continued to support the third phase of the Afghan People's Dialogue on Peace. A national Dialogue conference was held on 15 January, in Kabul city, providing a forum for civil society activists from all over Afghanistan to discuss mechanisms for peacebuilding in the presence of the Second Vice-President and other National Unity Government authorities. At the conclusion of the conference, delegates issued a joint statement appealing to the Government to support the four areas identified as priority objectives for provincial civil society advocacy committees: (a) the promotion of responsive State institutions upholding human rights and rule of law and tackling the culture of impunity and widespread corruption; (b) the strengthening of security institutions and the disarming and disempowering of illegal armed groups and other pro-Government militias; (c) equitable social and economic development, fostering job creation and strengthening the education system; and (d) an inclusive peace process.

69. Between 1 January and 30 November, 32 provincial civil society committees were established, comprising a total of 362 (74 per cent) male and 127 (26 per cent) female members. These committees advocated with authorities on the 10-point national road map for peace, the 33 recommendations contained in the summary report on phase II of the Dialogue, and the provincial road maps for peace. In line with the principle of Afghan leadership and ownership of peacebuilding initiatives, UNAMA/OHCHR played a facilitating role as the secretariat of the steering committee of the Afghan People's Dialogue on Peace and supported civil society organizations in leading an inclusive, rights-

centred advocacy process to enable the voices of Afghans to be heard and considered by the local governmental bodies and authorities as well as the National Unity Government and policymakers.

70. In 2015, the provincial advocacy committees held 278 advocacy meetings in 32 provinces to exert and encourage provincial governmental sector authorities, including governors, heads of law enforcement institutions, individuals in charge of security organs, and public service providers, to institute reforms to promote respect for human rights and the rule of law.

## VI. Support to national institutions

71. In early 2015, the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights rendered its decision on the status of the Afghanistan Independent Human Rights Commission based on its five-yearly accreditation review. It had deferred its decision for one year owing to concerns regarding the selection and appointment process for commissioners, the dependence of the Commission on international donor funding and the disparity in the ratio of female to male staff members. Following the review, the Commission retained its "status A" accreditation.

72. In 2015, the Afghanistan Independent Human Rights Commission continued to address the concerns raised by the Subcommittee on Accreditation. UNAMA/OHCHR remains committed to strengthening this critical institution and supporting the implementation of its strategic action plan. UNAMA/OHCHR urges the National Unity Government to ensure the Commission's continued independence, credibility and effectiveness.

## VII. Cooperation with United Nations human rights mechanisms

73. UNAMA/OHCHR facilitated a capacity-building programme provided by an OHCHR expert to selected specialists of the Human Rights Support Unit of the Ministry of Justice on monitoring the implementation of Afghanistan's March 2015 universal periodic review recommendations. The training was aimed at increasing the capacity of the Human Rights Support Unit to address substantial gaps relating to the implementation of universal periodic review recommendations and data collection across the Government. In September, UNAMA/OHCHR recruited a national consultant to assist the Unit in that task. The consultant reviewed domestic laws in the light of international human rights norms and standards as well as indicators measuring the implementation of universal periodic review and treaty body recommendations.

74. In line with OHCHR advocacy and advice, the Human Rights Support Unit advocated for the reactivation of the Task Force Committee (formerly named the Human Rights Coordination Committee) through a regulation on support for human rights in governmental administration, which had been approved by the Council of Ministers in August 2014. The Committee is responsible for coordinating governmental efforts to assess the recommendations of national and international institutions on human rights obligations and their application within governmental organs.

75. The regulation was endorsed by President Ghani and published in the Official Gazette on 17 September 2014. The first meeting of the Committee was held on 19 January 2015. The Committee is chaired by the Minister of Justice and includes deputies from the Ministries of Defence; Interior; Foreign Affairs; Education; Finance; Women's Affairs; Public Health; Refugees and Repatriations; Information and Culture; Labour, Social

Affairs, Martyrs and Disabled; and representatives of the Attorney General's Office, the Afghanistan Independent Human Rights Commission and civil society organizations.

## VIII. Conclusion

76. The security, political and economic challenges faced by the Government of Afghanistan, combined with weak rule of law institutions, persistent impunity and deeply rooted discriminatory practices affecting women, adversely impacted on the human rights situation. Throughout 2015, civilians continued to bear the brunt of the conflict. UNAMA/OHCHR documented the highest levels of civilian casualties since 2009.

77. A pervasive culture of impunity prevailed for perpetrators of human rights violations and abuses, in particular, attacks against the civilian population, violence against women, and torture and ill-treatment, killings and other forms of harm.

78. Amid ongoing violence and political instability, the Government took steps to promote and protect human rights. Key achievements included the issuance of a national action plan on Security Council resolution 1325 (2000) on women and peace and security and a national plan on the elimination of torture and the inclusion of human rights indicators and deliverables in the Self-Reliance through Mutual Accountability Framework. UNAMA/OHCHR fully supports those initiatives, which are critical to ensuring that the fundamental rights of all people in Afghanistan are protected and upheld.

79. Building a culture of human rights and protection requires a long-term political commitment by Afghan authorities at all levels and continued support from the international community. UNAMA/OHCHR will continue its efforts through 2016 and beyond to work with the Government, security organs, civil society, the international community and other relevant stakeholders, to strengthen the promotion and protection of human rights in Afghanistan.

## IX. Recommendations

80. **The United Nations High Commissioner for Human Rights recommends the following:**

81. **The Government of Afghanistan should:**

(a) **Initiate and implement sound measures aimed at protecting civilians, in particular vulnerable populations, from the harms of the armed conflict;**

(b) **Strengthen structures to track, mitigate and provide accountability for civilian casualties by pro-Government forces; ensure accountability for violations of international humanitarian and human rights law and human rights abuses by the Afghan National Security Forces and pro-Government militias and allied forces and prosecute and punish those found responsible; and continue to dedicate all resources necessary to enable the full implementation of the national strategy to counter improvised explosive devices;**

(c) **Promptly disband and disarm pro-Government militias and investigate, prosecute and punish perpetrators of human rights abuses and other criminal acts, and ensure that individuals recruited into regular security forces have been adequately vetted;**

(d) **Enhance the enforcement of laws and directives to prevent and ensure accountability for underage recruitment and use of children and other grave**

violations of children's rights; and ensure implementation by national security personnel;

(e) Take concrete steps to implement the national action plan on Security Council resolution 1325 (2000) covering the period from 2015 to 2022, with dedicated human and financial resources, as well as accountability mechanisms to track and report on advancements in the women and peace and security agenda;

(f) Ensure the diligent implementation of the legal framework to protect women's rights, including freedom from violence; in particular, build the capacity of national institutions in that regard;

(g) Ensure the diligent implementation of the national plan on the elimination of torture;

(h) Invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Afghanistan to assist in providing a comprehensive response to prevent and address ill-treatment in detention facilities;

(i) Ensure full access for OHCHR/UNAMA and Afghanistan Independent Human Rights Commission monitors to all places of detention.

82. Anti-Government elements should:

(a) Immediately cease the deliberate targeting of civilian locations and civilians, including human rights defenders, non-governmental organization staff members, journalists and Government officials;

(b) Cease the use of indirect and indiscriminate incendiary and explosive weapons in areas populated by civilians and implement directives prohibiting the use of pressure-plate improvised explosive devices;

(c) Enforce statements by the Taliban leadership regarding the human rights of women and girls, in particular access to education, in areas under Taliban influence;

(d) Implement directives issued by the Taliban leadership ordering the protection of civilians and prohibiting attacks in civilian populated areas, and hold accountable those who target and harm civilians.

83. The international community should:

(a) Sustain support to the Government to implement its commitments under international human rights law;

(b) Support the Government in the development of a national policy on civilian casualty mitigation and the implementation of an action plan to prevent civilian casualties in the conduct of hostilities;

(c) Establish benchmarks to ensure that Afghan institutions implicated in torture or ill-treatment take steps to prevent such acts, improve oversight and build accountability;

(d) Support the Government to advance the women and peace and security agenda through the implementation of the national action plan on Security Council resolution 1325 (2000), and ensure that effective accountability mechanisms are in place to track and report on progress and the management of donor funds;

(e) Support the Government in achieving progress in the implementation of the human rights indicators and deliverables in the Self-Reliance through Mutual Accountability Framework.